

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAI'I

MARA AMONE, individually )	CIVIL NO.CV04-00508
and on behalf of all )	ACK/BMK
those similarly situated )	(Class Action)
)	
)	
Plaintiffs, )	
)	DECLARATION OF
vs. )	PATTI Y. MIYAMOTO;
)	EXHIBITS "1", "2",
STEPHANIE AVEIRO, et al. )	"3", "4", "5", "6",
)	"7", "8", "9"
Defendants )	
)	
)	
_____ )	

DECLARATION OF PATTI Y. MIYAMOTO

PATTI Y. MIYAMOTO, under penalty of perjury,  
declares the following to be true and correct:

1. I have been the interim executive director  
of the Hawaii Public Housing Authority, formerly  
known as the Housing and Community Development  
Corporation of Hawaii ("HCDCH") since September,  
2006. Prior to being appointed the interim  
executive director, I was the chief compliance  
officer for HCDCH and then HPHA. I have direct  
knowledge of the facts and circumstances of the

present litigation and I am competent to testify as to the truth and accuracy of the Exhibits and documents attached to this Declaration. For the purposes of this Declaration and the present litigation, reference will continued to be made to HCDCH.

2. The Complaint in this case was filed on August 18, 2004 and was in addition to two other cases filed against HCDCH in 2004: 1) Smith, et al. v. Aveiro, HCDCH, Civ. No. 04-00308DAE, filed on May 13, 2004 (U.S. District Court, Hawaii); and 2) Smith, et al. v. HCDCH, Civ. No. 04-1-0069K (Third Circuit Court, State of Hawaii). Both of these cases related to the alleged failure by HCDCH to provide federal public housing residents who purchase their own utilities with appropriate utility allowances as required by the applicable federal regulations, 24 C.F.R. §965.502, et seq.

3. The Complaint in this case related

specifically to the provision of a supplemental utility allowance for eligible disabled residents in federal public housing projects who purchased their own utilities under 24 C.F.R §965.508.

4. Following the filing of the first Complaint relating to the utility allowances on May 13, 2004, HCDCH undertook immediate corrective measures to correct and update the utility allowances to be in compliance with the applicable laws and federal regulations.

5. HCDCH's corrective measures included the retention of a nationally recognized consultant, National Facilities Consultants, Inc. ("NFC, Inc."), to assist HCDCH in amending the utility allowance schedules, including the supplemental utility allowances for disabled residents, review of the procedures for eligible residents to apply for and receive the utility allowances, and proposed amendments to HCDCH administrative rules pursuant to Chapter 91, Hawaii Revised Statutes, to

insure that HCDCH would annually review and update, if necessary, the utility allowances in order to be in full compliance with 24 C.F.R. §965.502, et seq.

6. HCDCH implemented amended and updated utility allowances and schedules in accordance with the federal regulations for eligible federal public housing residents on October 1, 2004, retroactive to September 1, 2004.

7. On or about December 1, 2004, HCDCH implemented amended and updated supplemental utility allowances for eligible disabled federal public housing residents in accordance with 24 C.F.R. §965,508. HCDCH also mailed a written notice to all federal public housing residents in their December 2004 rent notice, advising every resident of the availability of the supplemental utility allowance to eligible disabled residents.

8. Concurrent with the implementation of the amended supplemental utility allowances on December 1, 2004, HCDCH also amended its administrative

rules relating to the utility allowances, §17-2028-7, Hawaii Administrative Rules ("H.A.R.") pursuant to chapter 91, Haw. Rev. Stat., to be in conformance with the provisions of 24 C.F.R. §965.508, et seq.

9. As required in §17-2028-7, H.A.R., beginning every January 1, HCDCH will annually review the utility allowance schedules and, following due notice and public input, implement any required adjustments effective July 1 every year.

10. The amended rule relating to the supplemental utility allowances and schedules were approved by Governor Linda Lingle on or about July 10, 2005, and became effective on July 21, 2005. A true and correct copy of §17-2028-7, H.A.R., and the amended Exhibits E and K are attached hereto as **Exhibit "1"**.

11. On or about May 31, 2005, the Court issued a preliminary injunction order which, among other

things, required HCDCH to send a Notice informing residents of the availability of and the process to apply for the supplemental utility allowance a) to all current residents known to be disabled and b) to all former residents known to be disabled at their last known address. A true and correct copy of the Notice which was approved by the Court on June 17, 2005 is attached hereto as **Exhibit "2"**.

12. Subsequently, HCDCH began mailing the Notice as directed in the Court's order.

13. On November 8, 2005, a total of 1,625 Notices were mailed via certified mail to all disabled residents of record residing in public housing between August 18, 2002 and the present, return receipt requested. Of that total, 302 were returned as unclaimed and 6 were marked "Deceased".

14. Additionally, HCDCH published the Notice in newspapers of general circulation. Attached here are true and correct copies of the Affidavits of Publication for : 1) **Exhibit "3"**, "The Garden

Island"; 2) **Exhibit "4"**, "West Hawaii Today"; 3) **Exhibit "5"**, "Hawaii Tribune Herald"; 4) **Exhibit "6"**, "MidWeek" and the "Honolulu Star Bulletin"; and **Exhibit "7"**, "The Maui News."

15. On March 10, 2006, HCDCH amended its Reasonable Accommodation application form to include a specific category for eligible disabled residents who were requesting a change in their utility allowance due to their use of a prescribed medical device using electricity. Attached hereto is a true and correct copy of the amended form as **Exhibit "8"**.

16. For 2006, HCDCH conducted its annual review of the utility allowance schedules for both the base allowances and for the supplemental utility allowance and has implemented the required adjustments. Attached hereto as **Exhibit "9"** is a true and correct copy of 2006 Allowances for Medical Equipment for disabled residents who may be eligible for the supplemental utility allowance.

17. For 2007, HCDCH will begin conducting its annual review of all the utility allowances for assessment and update and, if required, implement all necessary amendments in compliance with the applicable laws, rules and regulations following public comment, by July 1, 2007.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my information, knowledge and belief.

  
PATTI Y. MIYAMOTO

DATED: February 21, 2007